

HOUSE BILL 1535

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By: **Delegate Hecht**

Introduced and read first time: March 8, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Electric Companies – Overhead Transmission Lines – Requirements**

3 FOR the purpose of prohibiting an electric company from beginning construction on an
4 overhead transmission line that is designed to carry a certain capacity or
5 exercising a right of condemnation in connection with the construction unless
6 the electric company first meets certain conditions; prohibiting the Public
7 Service Commission from authorizing, and an electric company from
8 undertaking or exercising a right of condemnation in connection with, the
9 construction of an overhead transmission line designed to carry a certain
10 capacity if the electric company's ownership meets certain criteria; providing for
11 the application of a certain provision; providing that this Act applies
12 retroactively to certain applications filed or pending on or after a certain date;
13 and generally relating to the construction of overhead transmission lines.

14 BY repealing and reenacting, without amendments,
15 Article – Public Utility Companies
16 Section 1–101(a) and (h) and 7–207(a)
17 Annotated Code of Maryland
18 (2008 Replacement Volume and 2009 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Public Utility Companies
21 Section 7–207(b)
22 Annotated Code of Maryland
23 (2008 Replacement Volume and 2009 Supplement)

24 BY adding to
25 Article – Public Utility Companies
26 Section 7–207(i)
27 Annotated Code of Maryland
28 (2008 Replacement Volume and 2009 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Public Utility Companies**

4 1–101.

5 (a) In this article the following words have the meanings indicated.

6 (h) (1) “Electric company” means a person who physically transmits or
7 distributes electricity in the State to a retail electric customer.

8 (2) “Electric company” does not include:

9 (i) the following persons who supply electricity and electricity
10 supply services solely to occupants of a building for use by the occupants:

11 1. an owner/operator who holds ownership in and
12 manages the internal distribution system serving the building; or

13 2. a lessee/operator who holds a leasehold interest in
14 and manages the internal distribution system serving the building;

15 (ii) any person who generates on–site generated electricity; or

16 (iii) a person who transmits or distributes electricity within a
17 site owned by the person or the person’s affiliate that is incidental to a primarily
18 landlord–tenant relationship.

19 7–207.

20 (a) (1) In this section and § 7–208 of this subtitle, “construction” means:

21 (i) any physical change at a site, including fabrication, erection,
22 installation, or demolition; or

23 (ii) the entry into a binding agreement or contractual obligation
24 to purchase equipment exclusively for use in construction in the State or to undertake
25 a program of actual construction in the State which cannot be canceled or modified
26 without substantial loss to the owner or operator of the proposed generating station.

27 (2) “Construction” does not include a change that is needed for the
28 temporary use of a site or route for nonutility purposes or for use in securing geological
29 data, including any boring that is necessary to ascertain foundation conditions.

1 (b) (1) (i) Unless a certificate of public convenience and necessity for
2 the construction is first obtained from the Commission, a person may not begin
3 construction in the State of a generating station.

4 (ii) If a person obtains Commission approval for construction
5 under § 7-207.1 of this subtitle, the Commission shall exempt a person from the
6 requirement to obtain a certificate of public convenience and necessity under this
7 section.

8 (2) Unless a certificate of public convenience and necessity for the
9 construction is first obtained from the Commission, and the Commission has found
10 that the capacity is necessary to ensure a sufficient supply of electricity to customers
11 in the State, a person may not exercise a right of condemnation in connection with the
12 construction of a generating station.

13 (3) [Unless a certificate of public convenience and necessity for the
14 construction is first obtained from the Commission, an electric company may not begin
15 construction of an overhead transmission line that is designed to carry a voltage in
16 excess of 69,000 volts or exercise a right of condemnation with the construction.] **AN**
17 **ELECTRIC COMPANY MAY NOT BEGIN CONSTRUCTION OF AN OVERHEAD**
18 **TRANSMISSION LINE THAT IS DESIGNED TO CARRY VOLTAGE IN EXCESS OF**
19 **69,000 VOLTS OR EXERCISE A RIGHT OF CONDEMNATION IN CONNECTION WITH**
20 **THE CONSTRUCTION UNLESS THE ELECTRIC COMPANY FIRST:**

21 (I) OBTAINS A CERTIFICATE OF PUBLIC CONVENIENCE AND
22 NECESSITY FOR THE CONSTRUCTION FROM THE COMMISSION; AND

23 (II) DEMONSTRATES TO THE SATISFACTION OF THE
24 COMMISSION THAT THE ELECTRIC COMPANY HAS SUFFICIENT LIABILITY
25 INSURANCE OR OTHER ASSETS TO COVER DAMAGES TO THE PUBLIC THAT MAY
26 ARISE FROM THE CONSTRUCTION OR OPERATION OF THE OVERHEAD
27 TRANSMISSION LINE.

28 (I) (1) THE COMMISSION MAY NOT AUTHORIZE, AND AN ELECTRIC
29 COMPANY MAY NOT UNDERTAKE OR EXERCISE A RIGHT OF CONDEMNATION IN
30 CONNECTION WITH, THE CONSTRUCTION OF AN OVERHEAD TRANSMISSION LINE
31 DESIGNED TO CARRY VOLTAGE IN EXCESS OF **69,000** VOLTS IF THE ELECTRIC
32 COMPANY IS OWNED IN WHOLE OR IN PART BY ONE OR MORE CORPORATIONS OR
33 OTHER BUSINESS ENTITIES THAT:

34 (I) ARE NOT ELECTRIC COMPANIES; OR

35 (II) DO NOT HAVE THE AUTHORITY TO CONTROL THE
36 DAY-TO-DAY BUSINESS DECISIONS OF THE ELECTRIC COMPANY.

1 **(2) PARAGRAPH (1) OF THIS SUBSECTION DOES NOT LIMIT AN**
2 **ELECTRIC COMPANY OWNED BY A HOLDING COMPANY THAT IS NOT AN**
3 **ELECTRIC COMPANY FROM UNDERTAKING OR EXERCISING A RIGHT OF**
4 **CONDEMNATION IN CONNECTION WITH THE CONSTRUCTION OF AN OVERHEAD**
5 **TRANSMISSION LINE DESIGNED TO CARRY VOLTAGE IN EXCESS OF 69,000**
6 **VOLTS.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
8 construed to apply retroactively and shall be applied to and interpreted to affect any
9 application, filed or pending on or after February 1, 2010, for a certificate of public
10 convenience and necessity under Title 7, Subtitle 2 of the Public Utility Companies
11 Article.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 June 1, 2010.